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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,709	02/20/2004	Trausti Kristjansson	M61.12-0589	5611
27366	7590	09/11/2008	EXAMINER	
WESTMAN CHAMPLIN (MICROSOFT CORPORATION)			COUSO, YON JUNG	
SUITE 1400			ART UNIT	PAPER NUMBER
900 SECOND AVENUE SOUTH			2624	
MINNEAPOLIS, MN 55402-3244			MAIL DATE	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)
	10/783,709	KRISTJANSSON ET AL.
	Examiner Yon Couso	Art Unit 2624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 03 June 2008.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-17,20-27,29 and 32-34 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 16,17,20-27 and 32-34 is/are allowed.
- 6) Claim(s) 1-4,8,9,14,15 and 29 is/are rejected.
- 7) Claim(s) 5-7, 10-13 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application
- 6) Other: _____

1. Applicant's arguments filed June 3, 2008 have been fully considered but they are not persuasive.

The applicants argue that Rui does not show or suggest tracking a change in position of an object in three dimensions. The examiner disagrees. Rui does teach every limitations in the claim 1. Rui teaches tracking a changing position of the object in three dimensions from the at least two frames of image data (paragraph 0162).

2. Claim 29 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 29 depends from a cancelled claim 28. Please correct the dependency of claim 29.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 8-9, 14-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Rui et al (US 2003/0103647).

As for claim 1, Rui teaches a method comprising: receiving at least two frames of image data (paragraph 0026); learning a model for the appearance of an object from the at least two frames of image data (paragraph 0030-0031); and tracking a changing

position of the object in three dimensions from the at least two frames of image data (paragraph 0162).

As for claim 2, Rui teaches that each frame of image data consists of image data from at least two cameras (paragraph 0027).

As for claim 3, Rui teaches tracking a changing position comprises representing possible positions as particles (paragraphs 0162-0165).

As for claim 4, Rui teaches tracking a changing position further comprises weighting each particle in a set of particles based on the probability that the particle represents the position of the object (paragraphs 0166-0168).

As for claim 8, Rui teaches learning a model for the appearance of an object comprises using an expectation-maximization algorithm to learn the model of the appearance (paragraphs 0132-0135).

As for claim 9, Rui teaches that the expectation-maximization algorithm further comprises determining a posterior probability for the appearance of the object (paragraphs 0132-0135).

As for claim 14, Rui teaches determining a model of the appearance of a background (paragraphs 0105 and 0114).

As for claim 15, Rui teaches representing possible positions of the object as particles and weighting each particle (paragraphs 0086-0087); and determining a posterior probability for the appearance of the object based in part on the weighting of the particles (paragraphs 0088-0158).

4. Claims 5-7 and 10-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Claim 29 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yon Couso whose telephone number is (571) 272-7448. The examiner can normally be reached on Monday through Friday from 8:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bhavesh Mehta, can be reached on (571) 272-7453. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Yon Couso/
Primary Examiner, Art Unit 2624
September 2, 2008